

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO

THE CINCINNATI INSURANCE	)	CASE NO. 02-CV-521
COMPANY,	)	
	)	
Plaintiff,	)	JUDGE S. ARTHUR SPIEGEL
	)	
vs.	)	<b><u>JOINT MOTION FOR CONTINUANCE</u></b>
	)	<b><u>OF FINAL PRETRIAL CONFERENCE</u></b>
THE NATIONAL AERONAUTICS AND	)	
SPACE ADMINISTRATION, et al.,	)	
	)	
Defendants.	)	

Plaintiff The Cincinnati Insurance Company (“Cincinnati Insurance”) and Defendants Robert Shepherd and Linda Shepherd (collectively, the “Shepherds”) jointly move the Court for a brief continuance of the final pretrial conference in this action, currently scheduled to take place on June 9, 2004 at 9:00 a.m.

A Memorandum in Support of this Motion is attached hereto and incorporated herein.

Respectfully submitted,

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Attorney for Defendants Robert Shepherd and  
Linda Shepherd

### **MEMORANDUM IN SUPPORT OF MOTION**

Cincinnati Insurance and the Shepherds jointly move the Court for a brief continuance of the final pretrial conference in this action, currently scheduled for June 9, 2004 at 9:00 a.m. The reason for this request is that undersigned counsel for Cincinnati Insurance and the Shepherds have been actively engaged in settlement discussions of the claims among them,<sup>1</sup> and believe that, if the requested continuance is granted, a settlement of such claims may likely be obtained, obviating the need for further pretrial and trial proceedings in this matter and the time and expense associated therewith.<sup>2</sup>

For the foregoing reasons, Cincinnati Insurance and the Shepherds request that this joint motion be granted, and that the final pretrial conference in this action be continued.

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<sup>1</sup>Cincinnati Insurance's claims against The National Aeronautics and Space Administration – upon which this Court's federal jurisdiction was premised (*see* ECF No. 1) -- have already been settled and dismissed. (*See* ECF No. 12.) Thus, the only remaining claims in this action are Cincinnati Insurance's ancillary state claims against the Shepherds and the other remaining defendants. Of these remaining defendants, two – Thomas and Cynthia Zimmer – have filed bankruptcy, and Cincinnati Insurance's claims against them have been stayed. (*See* ECF No. 14.) The only other remaining defendant, Allied Construction Group, Inc., has filed an Answer stating that it is out of business and without assets and that, therefore, it “waives any and all further rights to participate in this lawsuit.” (*See* ECF No. 16.)

<sup>2</sup>Currently the trial in this matter is scheduled to commence June 22, 2004. Perhaps the final pretrial conference can be re-scheduled for this date, and, if the matter is not settled by this date, a new trial date can be set at that time.

Respectfully submitted,

/s/ Lee M. Brewer

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### **CERTIFICATE OF SERVICE**

I hereby certify that, on June 8, 2004, the foregoing Joint Motion For Continuance Of Final Pretrial Conference was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Ronald P. Friedberg

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